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June 3, 1999
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Office of the Secretary
Magalie Roman Salas
Federal Communications Commission
Portals II
445 12th St., SW
Suite TW-A325
Washington, D.C. 20554

RE: CC Docket No. 96-98 and NSD File No. L-98-136 — *Petition of the California Public Utilities Commission and the People of California for Delegation of Additional Authority.*

Dear Secretary:

Enclosed please find the original and four copies of the comments approved today for submission to the FCC by the Public Utility Commission of Texas in the above-referenced docket. These are being provided to you pursuant to the public notice issued on May 14, 1999, regarding this docket. If there are any questions, please contact me at the phone number listed below. Thank you.

Sincerely,

Linda Hymans
Sr. Utility Analyst
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Before the
FEDERAL COMMUNICATIONS COMMISSION JUN 9 1999
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

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Petition of California Public Utilities
Commission And Of The People of
California for Delegation of Additional
Authority

NSD File No. L-98-136

**COMMENTS OF
THE PUBLIC UTILITY COMMISSION OF TEXAS**

On April 23, 1999, the California Public Utilities Commission (CPUC) filed a petition requesting the Federal Communications Commission (FCC or Commission) to authorize the CPUC to implement number conservation measures.

In a notice¹ issued on May 14, 1999, the Common Carrier Bureau (Bureau) sought comment on the CPUC petition. Comments on these petitions are due on June 14, 1999 and reply comments are due on June 28.

The Public Utility Commission of Texas ("PUC") files the following comments in support of the CPUC petition.

I. BACKGROUND

The impetus for the CPUC petition is the FCC's September 28, 1998, Memorandum Opinion and Order and Order on Reconsideration ("PA Order")² regarding the July 15, 1997 Pennsylvania Public Utility Commission ("Pennsylvania Commission") order concerning specific area code relief measures undertaken for four Pennsylvania NPAs. In the PA Order, the FCC held that state commissions were precluded from ordering the return of NXX codes in the

¹ *Common Carrier Bureau Seeks Comment on the Florida Public Service Commission's Petition for Authority to Implement Number Conservation Measures* (rel. April 15, 1999) NSD File No. L-99-33.

² *Memorandum Opinion and Order and Order on Reconsideration* (PA Order), NSD File No. L-97-42 and CC Docket No. 96-98, September 28, 1998.

context of either a number pooling trial or as a means of protecting unused NXX codes against contamination in preparation for subsequent implementation of pooling.³ The PA Order also included limitations on the ability of state commissions to implement number conservation measures without prior FCC approval.⁴ The PA Order did not articulate a clear distinction between conservation measures requiring FCC approval and conservation measures that do not.

In its Petition for Reconsideration of the PA Order, the PUCT sought clarification of this point and urged the FCC to reconsider whether FCC approval of state-initiated conservation measures was necessary.⁵ The PUCT further requested that the process for FCC approval of state-initiated number conservation measures outlined in paragraph 31 of the PA Order be limited to the particular measures which were the subject of that Order. In the alternative, the PUCT urged the FCC to clarify paragraph 31 to specify which number conservation measures state commissions may implement without FCC approval and which measures are subject to the approval procedure outlined in paragraph 31.⁶

The FCC has not yet ruled on the petitions for reconsideration of the PA Order. Unless and until the FCC clarifies its PA Order to give states more latitude to implement number conservation measures, petitions similar to those filed by CPUC will continue to be filed by state commissions.

The PUCT strongly opposes FCC review and approval of each and every state-initiated conservation method. State commissions need the flexibility to implement on a timely basis number conservation measures that are responsive to the particular circumstances in their respective states. Requiring FCC approval of state-initiated conservation measures would stifle innovative approaches in managing numbering resources. Moreover, such a process would be inefficient, unduly burdensome and inconsistent with the underlying purposes of the Telecommunications Act. Because state commissions have a unique understanding of local circumstances, they are in the best position to determine whether and when number conservation measures should be implemented. State commissions should not be prohibited from implementing number conservation measures that can reasonably postpone burdensome and disruptive area code relief plans.

The CPUC petition seeks authorization from the FCC to enact various number conservation measures designed to slow the rapid exhaust of numbering resources in California.

³ PA Order at paragraph 24.

⁴ *Id.* at paragraph 31.

⁵ *Petition for Reconsideration of the Public Utility Commission of Texas* ("PUCT Petition") (filed December 15, 1998), NSD File No. L-97-42 and CC Docket No. 96-98.

⁶ *Id.* at 20.

The PUCT, like the CPUC, has sought to conserve numbering resources in a variety of ways. Number conservation measures utilized by the PUCT include rate center consolidation, voluntary NXX code give back, expanded local calling area (ELCA) for wireless, sequential number assignment and a virtual number pooling trial. These measures are discussed in more detail in the PUCT's Petition for Reconsideration of the PA Order⁷ and the PUCT's comments on the North American Numbering Council Report Concerning Telephone Number Pooling and Other Optimization Methods (NANC Report)⁸, both of which are incorporated herein by reference. State-initiated number conservation measures such as those discussed above and those proposed in the CPUC petition, can and should continue to play a significant role in advancing the industry toward more efficient number utilization in the years ahead.

The CPUC requests FCC authority to implement a mandatory number pooling trial, order efficient number use practices within NXX codes, to hear and address requests from individual carriers for assignment of codes outside the NXX code rationing process, order carriers to return unused NXX codes to the code administrator, order carriers to return unused or underutilized portions of NXX codes to the pooling administrator, when one is selected. The PUCT concurs with this request.

II. DISCUSSION

CPUC Petition

In its petition, the CPUC requests authority from the FCC to implement certain number conservation measures.⁹ These measures are all legitimate, reasonable number conservation measures that state commissions should have the authority to implement at their discretion. While the PUCT may not choose to implement all of these measures in Texas, it supports CPUC's right to decide which conservation measures are appropriate for the particular circumstances in California. The CPUC has provided adequate support for implementation of the requested measures and they should be approved by the FCC. More broadly, the FCC could use the CPUC petition as an opportunity to reverse its Pennsylvania order, and grant California and all other states the authority to implement number conservation measures without FCC review or intervention. Previous petitions by the regulatory bodies in New York, Massachusetts, and Florida

⁷ *Id.* at 6-10.

⁸ On October 21, 1998, the NANC submitted a report to the Chief of the Common Carrier Bureau ("Bureau") entitled "Number Resource Optimization Group Modified Report to the North American Numbering Council on Number Optimization Methods" ("NANC Report"). On November 6, 1998, the Bureau issued a public notice requesting comments on the NANC Report. The PUCT submitted comments on the NANC Report on December 21, 1998. *Comments of the Public Utility Commission of Texas on the North American Numbering Council Report Concerning Telephone Number Pooling and Other Optimization Methods*, ("PUCT Comments") NSD File No. L-98-134.

⁹ CPUC Petition at 1 and 2.

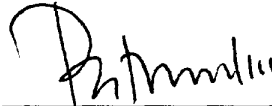
are evidence that states are facing numbering crises and with the appropriate authority can assist with the conservation of the North American Plan (NANP) and prevent needless public chaos.

III. CONCLUSION

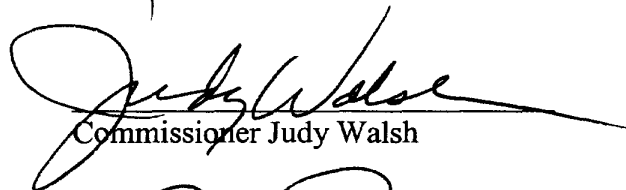
Consistent with its Petition for Reconsideration of the PA Order as well as its comments on the NANC Report, the PUCT does not believe that FCC approval of all state-initiated number conservation measures is either necessary or appropriate. The PUCT has been and remains willing to work with the FCC in solving the complex problems associate with NPA exhaust. However, state commissions are in the best position to determine when and how to implement number conservation measures for the benefit of consumers in their respective states.

The PUCT supports the petition of the CPUC for authority to implement specific number conservation measures and requests that the FCC approve them.

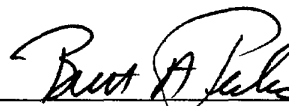
Respectfully submitted,



Chairman Pat Wood, III



Commissioner Judy Walsh



Commissioner Brett A. Perlman